

From: Gary M. Osen

Sent: Thursday, May 1, 2014 10:41 PM

To: 'Stephens, Shand S.'

Cc: 'Elsner, Mike' (melsner@motleyrice.com); 'Joel Israel <jisrael@swtriallaw.com> (jisrael@swtriallaw.com)'

Subject: RE: Linde v. Arab Bank, PLC and related actions (Dr. Beverly Milton-Edwards' April 8, 2014 Supplemental Expert Report)

Shand,

As I wrote to you earlier today, this e-mail will address most of the questions we intended to raise on our call. Once we receive your responses, we can mutually determine whether a follow-up teleconference is necessary. The questions set forth below reflect our effort to understand some of the background to Dr. Beverly Milton-Edwards' April 8, 2014 Supplemental Expert Report (the "Supplemental Report") and how you envision the process and timeline for addressing the Report going forward.

1. Please advise as to what date you (i.e. Arab Bank / DLA Piper) first retained Dr. Milton-Edwards to conduct research for, draft, and issue the Supplemental Report.
2. Please explain why, after retaining Dr. Milton-Edwards to issue a Supplemental Report, you did not advise Plaintiffs (or the Court) before April 11, 2014 of your intent to submit the Supplemental Report?
3. Please advise if you are willing to produce Dr. Milton-Edwards time sheets and invoices for the Supplemental Report, along with any additional, amended, or revised retainer agreements between Arab Bank / DLA Piper and Dr. Milton-Edwards with respect to the Supplemental Report.
4. Please advise whether Dr. Milton-Edwards' "longtime research assistant and translator" (Supp. Rep. ¶4) Ms. Nuha Musleh was retained directly by you (Arab Bank / DLA Piper) or by Dr. Milton-Edwards.
5. Please advise if you are willing to produce Ms. Musleh's time sheets and invoices with respect to the Supplemental Report, along with any retainer agreements between Arab Bank / DLA Piper or Dr. Milton-Edwards and Ms. Musleh with respect to the Supplemental Report.
6. The Supplemental Report does not state whether it supplements Dr. Milton-Edwards' prior Case-in-Chief Report or her Rebuttal Report or which specific opinions contained in either report is being supplemented. Rule 26(e)(1)(A) provides that supplementing or correcting prior disclosures (including Rule 26(a)(2)(B) expert witness reports) is required "*if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.*" Please advise whether it is Defendant's position that any

opinions set forth in Dr. Milton-Edwards' prior Case-in-Chief Report or her Rebuttal Report were incomplete or incorrect and please identify what specific opinions in one or both of her prior reports are being supplemented.

7. Please advise whether Defendant is prepared to produce Dr. Milton-Edwards in New York for deposition, and, if so, what range of dates she will be available.
8. In view of the fact that much of the Supplemental Report appears to rely on interviews that were presumably conducted in Arabic with Ms. Musleh's active participation, please also advise whether Defendant is prepared to produce Ms. Musleh in New York for deposition and, if so, what range of dates she will be made available.
9. Please advise whether Defendant now intends to further amend its trial exhibit lists to add any of the documents Milton-Edwards claims to have "reviewed and analyzed ... which formed the basis of conclusions" she states in her Supplemental Report (i.e. documents bates stamped MILTONEDWARDS002725 to 3253).
10. Please advise whether Defendant would oppose (on timeliness grounds) any additional third-party fact discovery Plaintiffs might seek to initiate as a result of the Supplemental Report.
11. Please advise whether Defendant would oppose (on timeliness grounds) any further amendment by Plaintiffs of their trial rebuttal exhibit lists to include documents responsive to the Supplemental Report?
12. Please explain how you now envisions the timing or schedule for any further *Daubert* motions/motion *in limine* practice germane to the Supplemental Report or any supplemental rebuttal report(s) Plaintiffs choose to issue in response to it.

Given that jury selection is slated to begin on August 11, 2014, Plaintiffs would appreciate receiving your written response no later than May 9th so we can move the process forward with sufficient time to address this issue before trial.

Thank you in advance for your cooperation.

Regards,

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